

1 LATHAM & WATKINS LLP
William R. Sherman (admitted *Pro Hac Vice*)
2 555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004-1304
3 Telephone: +1.202.637.2200
Facsimile: +1.202.637.2201
4 Email: william.sherman@lw.com

5 Ashley M. Bauer (SBN 231626)
505 Montgomery Street, Suite 2000
6 San Francisco, CA 94111-6538
Telephone: +1.415.391.0600
7 Facsimile: +1.415.395.8095
Email: ashley.bauer@lw.com

8 *Counsel for Defendant Singapore Airlines Limited*
9

10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**
14

15
16 **In re TRANSPACIFIC PASSENGER**
AIR TRANSPORTATION
17 **ANTITRUST LITIGATION**

Case No. 07-CV-05634-CRB

MDL No. 1913

Class Action

18 **This Document Relates to:**

19 **ALL ACTIONS**
20
21
22
23
24
25
26
27
28

**DECLARATION OF ASHLEY M.
BAUER IN SUPPORT OF
STIPULATION AND [PROPOSED]
ORDER REGARDING BRIEFING
SCHEDULE FOR SINGAPORE
AIRLINES LIMITED'S MOTION FOR
SUMMARY JUDGMENT RE: FILED
RATE ISSUES**

The Honorable Charles R. Breyer

[CIV. L.R. 6-2]

1 I, Ashley M. Bauer, declare as follows:

2 1. I am a partner at the law firm of Latham & Watkins LLP, and counsel for
3 defendant Singapore Airlines Limited (“Singapore Airlines”) in this matter.

4 2. Pursuant to Civil Local Rules 6-2 and 7-12, I submit this declaration in support of
5 the accompanying Stipulation and [Proposed] Order Regarding Briefing Schedule for Singapore
6 Airlines Limited’s Motion for Summary Judgment Re: Filed Rate Issues.

7 3. I have personal knowledge of the matters set forth herein and would competently
8 testify to them if requested to do so.

9 **Previous Time Modifications:**

10 4. This Court has previously modified the schedule for submissions or hearings in
11 this case. *See* Dkt. Nos. 238, 239, 276, 376, 398, 412, 538, 555, 584, 623, 638, 651, 657, 665,
12 683, 708, 710, 712, 720.

13 5. On September 24, 2013, Plaintiffs and Defendants filed a joint stipulation and
14 proposed order setting a briefing schedule for Plaintiffs’ responses to Defendants’ motions for
15 summary judgment on filed rate issues. (Dkt. No. 732.) The joint briefing schedule did not set a
16 deadline for Defendants to file their motions for summary judgment on filed rate issues. The
17 Court’s October 4, 2013 Order set a deadline for Plaintiffs’ responses to Defendants’ motions for
18 summary judgment on filed rate issues and for Defendants’ replies based on the date that the last
19 motion for summary judgment on filed rate issues is filed. (Dkt. No. 734.) At the hearing on
20 Friday, November 22, 2013 concerning Plaintiffs’ Motion to Substitute Plaintiffs and Leave to
21 Amend Class Complaint, the Court ordered Defendants to file any remaining motions concerning
22 the Filed Rate Doctrine within 14 days, or by December 6, 2013. (Dkt. No. 742.)

23 **Reasons for Requested Change in Time:**

24 6. Although Singapore Airlines has been working diligently on its filed rate motion
25 for summary judgment, Singapore Airlines’ counsel learned on Sunday, November 24, 2013 that
26 Singapore Airlines’ intended fact declarant is currently on leave and is unavailable until
27

1 December 10, four days after the deadline set by the Court for filing the motion for summary
2 judgment. (*See* Dkt. 742.)

3 7. Upon learning that Singapore Airlines' fact declarant was unavailable, I contacted
4 co-lead counsel for Plaintiffs, who have agreed to a brief extension of time, until December 17,
5 2013, for Singapore Airlines to file its motion. Plaintiffs and Singapore Airlines have further
6 agreed to extend the deadline for Plaintiffs to take Singapore Airlines' filed rate declarant's
7 deposition until 60 days after the date that Singapore Airlines files its motion for summary
8 judgment on filed rate issues.

9 8. Counsel for Singapore Airlines will endeavor to file its motion as soon as possible
10 after its intended declarant returns to work.

11 **Effect of Requested Time Modification on Case Schedule:**

12 9. Per the Court's Order Setting Briefing Schedule for Defendants' Summary
13 Judgment Motions Based on the Filed Rate Doctrine and Modifying the Schedule for Briefing on
14 Class Certification, Plaintiffs have "60 days after Defendants' counsel notify Plaintiffs via e-mail
15 that all of the summary judgment motions that Defendants intend to file based on the Filed Rate
16 Doctrine have in fact been filed" to respond to all of Defendants' motions. (Dkt. No. 734).

17 10. The small change in the due date for Singapore Airlines' motion for summary
18 judgment on filed rate issues would extend Plaintiffs' deadline to respond to all of the
19 Defendants' motions for summary judgment based on the filed rate doctrine by a commensurate
20 number of days (*e.g.*, if Singapore Airlines files its motion for summary judgment on December
21 12 instead of December 6, 2013, Plaintiffs' response will be due February 10 instead of February
22 4, 2014, giving Plaintiffs an additional six days to respond).

23 11. Singapore Airlines intends to endeavor to file its motion as soon as possible after
24 its intended declarant returns to work and will notify Plaintiffs' counsel via email as soon as
25 Defendant Singapore Airlines' motion has been filed, thereby starting the 60-day clock for
26 Plaintiffs to take the declarant's deposition and file their responses to Defendants' motions.

1 12. No hearing date on Defendants' motions for summary judgment has been set.
2 Therefore, Singapore Airlines' request for an extension will not impact any hearing date.

3 13. If Singapore Airlines' request is not granted, Singapore Airlines will not be able
4 to file its fact declarations in support of its motion for summary judgment, thereby severely
5 prejudicing Singapore Airlines' defense.

6
7 I declare under penalty of perjury that the foregoing is true and correct.

8
9 Executed on November 27, 2013 in San Francisco, California.

10
11 By: /s/ Ashley M. Bauer
12 Ashley M. Bauer
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28